

REMARKS

I. Summary of Office Action

In the Final Office Action mailed August 26, 2008 (“Office Action” as used herein), (1) Claims 1-7, 14-19, and 24 are rejected under 35 U.S.C. § 102(a) as being anticipated by U.S. Patent No. 6,938,011 to Kemp (hereinafter “Kemp”), (2) Claims 8-13, 20-22, and 25-26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kemp, and further in view of U.S. Patent No. 5,787,402 to Potter (hereinafter “Potter”), and (3) Claim 23 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Kemp in view of U.S. Patent No. 6,532,460 to Amanat (hereinafter “Amanat”).

II. Status of the Claims

Upon entry of the foregoing amendments, Claims 1-6, 8-17, 20-25 are pending, of which Claims 1, 17, 24, and 25 are independent. Claims 7, 18-19, and 26 are canceled. Claims 1, 3, 14-17, 24, and 25 are amended, per Examiner’s recommendation, to focus on a specific embodiment of the claimed invention. No new matter is added. Applicant reserves the right to prosecute claims of the same scope as the claims prior to this amendment at a later stage within the present application or another application.

III. Terminal Disclaimer

As suggested by the Office, Applicant has attached a Terminal Disclaimer in order to expedite allowance. The Terminal Disclaimer disclaims the terminal part of the statutory term of any patent granted on the present application extending beyond the expiration date of the full statutory term of U.S. Patent 7,454,382.

IV. Claim Rejection under 35 U.S.C. § 102(a)

Claims 1-7, 14-19 and 24 are rejected under 35 U.S.C. §102(a) as being anticipated by Kemp. Applicant respectfully traverses the rejection based on the following.

Applicant respectfully submits that Kemp fails to disclose the features of amended independent Claim 1. More specifically, Kemp fails to disclose at least:

temporarily holding the order request in a memory unit such that the order request is not sent to a matching engine at the electronic exchange until a preset rate of trades occurring at one or more prices to buy or sell the tradeable object is detected, wherein the preset rate of trades is based on an order quantity traded at the one or more prices;

receiving market data comprising quantity and price information relating to the tradeable object being traded at the electronic exchange;

using the market data to determine a rate of trades occurring at the one or more prices to buy or sell the tradeable object at the electronic exchange;

comparing the rate of trades to the preset rate of trades; and

automatically releasing the order request to the matching engine at the electronic exchange upon detecting the preset rate of trades.

Thus, Applicant respectfully requests withdrawal of the rejection and allowance with respect to amended independent Claim 1 as well as amended independent Claims 17 and 24 that recite similar features as independent Claim 1. Dependent claims 2-6 and 14-16 are allowable for at least the same reasons as their base, independent Claims 1 and 17, in addition to their own separate reasons. Accordingly, Applicant respectfully traverses the rejections with respect to the dependent claims. Applicant also reserves the right to argue patentability of each dependent claim separately in the future, if the need so arises.

V. First Claim Rejection under 35 U.S.C. § 103(a)

Claims 8-13, 20-22 and 25-26 are rejected under 35 U.S.C. §103(a) as being unpatentable over Kemp, and further in view of Potter.

Applicant respectfully submits that to establish a *prima facie* case of obviousness, the cited art must teach or suggest all the claim features. As shown above, Kemp fails to teach or suggest each and every feature of the claimed invention of amended independent Claim 1. Potter does not teach or suggest these features either. Claims 8-13, 20-22 depend from independent Claims 1 and 17 and thus should be allowable for at least the same reasons presented with respect to independent Claims 1 and 17. Additionally, Claims 8-13 and 20-22 are patentable for additional features they recite.

Applicant respectfully submits that independent Claim 25 also recites the step of “refraining from sending the order request to a matching engine at the electronic exchange until a

preset rate of trades occurring at one or more prices to buy or sell the tradeable object is detected, wherein the preset rate of trades is based on an order quantity traded at the one or more prices" that is not disclosed by Kemp. Potter does not teach or suggest this feature either. Thus, independent Claim 25 should be allowable for at least the same reasons presented above with respect to independent Claim 1.

VI. Second Claim Rejection under 35 U.S.C. § 103(a)

Claim 23 is rejected under 35 U.S.C. §103(a) as being unpatentable over Kemp, and further in view of Amanat. Claim 23 depends from independent Claim 1. Applicant respectfully submits that Amanat does not overcome deficiencies of Kemp presented above with respect to independent Claim 17. Thus, Claim 23 should be allowable for at least the same reasons presented above with respect to independent Claim 17.

VII. Conclusion

In view of the foregoing, Applicant respectfully submits that the claimed invention is not disclosed by the cited art. Accordingly, favorable reconsideration, withdrawal of the rejections, and allowance are respectfully requested.

If Examiner believes that further dialog would expedite consideration of the application, Examiner is invited to contact Trading Technologies in-house Patent Counsel Monika Dudek at 312-476-1118, or the undersigned attorney or agent.

Respectfully submitted,
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